

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAFAEL HERNANDEZ, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

EXP REALTY LLC,

Defendants.

CASE NO. C19-1882 RSM

ORDER GRANTING MOTION TO STAY

This matter is before the Court on Defendant EXP Realty, LLC's Motion to Stay Proceedings or in the Alternative to Stay Discovery. Dkt. #21. Defendant requests a stay of these proceedings pending a result in *Duguid v. Facebook Inc.*, 923 F.3d 1146 (9th Cir. 2019), *cert. granted* (No. 19-511). Defendant represents that in *Duguid* the United States Supreme Court will consider the definition of an "automatic telephone dialing system" under the TCPA and that the case will have a direct impact on this action. Plaintiff has not responded to Defendant's motion and the Court accepts this as an admission that the motion has merit. *See* LCR 7(b)(2) ("Except for motions for summary judgment, if a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit.").

1 Accordingly, having considered Defendant's motion and the remainder of the record, the
2 Court hereby finds and ORDERS that:

- 3 1. Defendant EXP Realty, LLC's Motion to Stay Proceedings or in the Alternative to Stay
4 Discovery (Dkt. #21) is GRANTED.
- 5 2. This matter is STAYED pending the Supreme Court's resolution of *Duguid v. Facebook*
6 *Inc.*, 923 F.3d 1146 (9th Cir. 2019), *cert. granted* (No. 19-511).
- 7 3. The parties shall promptly notify the Court of any material change in the status of *Duguid*
8 by filing a Joint Status Report advising the Court whether this matter should remain
9 stayed. If *Duguid* has not been resolved by the Supreme Court as of January 1, 2021, the
10 parties shall file a Joint Status Report indicating the status of the case and whether this
11 matter should remain stayed. Thereafter, the parties shall file a Joint Status Report
12 updating the Court at least once every six months until *Duguid* is resolved.

13 Dated this 8th day of September, 2020.

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17 RICARDO S. MARTINEZ
18 CHIEF UNITED STATES DISTRICT JUDGE
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